IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1445 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VIPINBHAI PRAHLADBHAI PATEL

Versus

INDUBEN W/O VIPINBHAI PRHLADBHAI PATEL

Appearance:

1. Civil Revision Application No. 1445 of 2001

MS KRUTI SHAH for Petitioner No. 1

PAWANKUMAR N for Respondent No. 1

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 13/08/2003

ORAL JUDGEMENT

Rule. Mr. Pawankumar, learned advocate for the respondent, waives service of rule.

In this matter this Court had already passed orders dated 31.7.2003 and 2.8.2003. Today, before this Court, Vipinbhai Prahladbhai Patel and Induben Vipinbhai Prahladbhai Patel along with their advocates are present. They both have produced a compromise purshis entered into by them before the Metropolitan Magistrate, Ahmedabad, in Criminal Case No. 991 of 2001 along with an order of the learned Magistrate in this behalf. The same is taken on record.

2. Pursuant to the earlier order, the wife had gone to the house of the husband and taken certain gold ornaments and now she states that whatever ornaments she has received from her hushand's house, she has no difference or dispute. A list of gold ornaments received by her has been attached. She has orally stated in person that she has no dispute regarding the ornaments in question. She has further stated that she has no other difference and dispute in this regard and decree of divorce may be granted in her favour.

2.1 It may be noted that divorce petition being Hindu Marriage Petition No. 81 of 2001 filed by the petitioner Vipinbhai P. Patel is pending in the court of the learned Civil Judge (S.D.), Baroda. The learned counsel for the petitioner has invited my attention to the order in this Revision Application dated 5.12.2002 passed by my brother Mr. Justice P.B. Majmudar. In that there is already an order that Hindu Marriage Petition No. 81 of 2001 is converted into a petition under Section 13-B of the Act as both of them have decided to separate. It was also stated that both of them are residing separately for the last more than three years and there is no possibility of re-union and they have decided that it is in the interest of each of them to separate, and accordingly they have decided to take divorce under Section 13-B of the Act. In that order it was also stated that the petitioner-husband has provided for permanent alimony for the wife as well as for maintenance of the minor daughter, namely, Dhruma who is residing with the respondent-wife. Minor boy Zil is staying with the petitioner-husband and the husband has agreed that he will look after him properly. The said order passed by this Court may also be considered as part of the order in this behalf.

2.2 In view of this petition filed and the order passed by this Court, I am satisfied that both the petitioner husband and the respondent wife have stated in the application under Section 13B of the Act that they

have decided to separate. In view of the same, I declare that the marriage betwen the petitioner husband and the respondent wife be dissolved and decree of divorce be granted.

2.3 However, before the decree of divorce of divorce can be granted, a sum of Rs. 4,50,000/- (Rupees four lakhs fifty thousand) which has been deposited by the husband before this Court is ordered to be given to the wife Induben Vipinbhai Prahladbhai Patel. The Registry of this Court is, therefore, directed to issue an account payee cheque of the said sum of Rs. 4,50,000/- (Rupees four lakhs fifty thousand) in favour of Induben Prahladbhai Patel. The cross-order cheque may be handed over to Induben Prahladbhai Patel after due verification.

3. It may be noted that application for maintenance filed under Section 125 of the Criminal Procedure Code by wife Induben Prahladbhai Patel before the family Court may be withdrawn by her in view of this settlement. A copy of this order of settlement may be given to the family Court. The Family Court is requested to pass order accordingly.

4. The marriage between the petitioner husband and the respondent wife has been dissolved and the relationship between them as hushand and wife has come to an end. Both parties have agreed that they will abide by the order of this Court.

5. In view of the above, this Civil Revision Application stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

Direct service is permitted.

(K.M. MEHTA, J)
(pkn)